	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/534,808	ASHLEY, ALEXIS S R
	Examiner	Art Unit	
	LONGBIT CHAI	2431	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>10 February 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-15</u>.

   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Longbit Chai/
Primary Examiner, Art Unit 2431

U.S. Patent and Trademark Office

PTOL-303 (Rev. 08-06)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20090217

Continuation of 11. does NOT place the application in condition for allowance because:

As per claim 1 and 9, Applicant asserts (a) nothing in Koike teaches or suggests the Terminal Device and the Privacy Data Administrator are a "complete set of the receiver" (Remarks: Page 6 / 2nd Para / Line 6 - 8) (b) This privacy data administrator administrating data including privacy of the user (not the receiver) (Remarks: Page 6 / 1st Para / Line 4 - 5) and (c) Koike does not teach that the privacy policy identifying the usage data sought to be harvested and an intended use for the usage data is provided to the receiver or terminal, but is administered by a device between the server and receiver (Remarks: Page 5 / 4th Para / Line 7 - 10). Examiner respectfully disagrees with the following rationale.

o Regarding (a), Applicant's argument has no merit since the alleged limitation has not been recited into the claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

This is because the claim limitation "at the receiver selecting from the store the usage data identified in the privacy policy", as recited in the claim, does not particularly point-out the usage data is the receiver's usage data and instead, merely recites "the usage data identified in the privacy policy". On this regard, Koike teaches provide / transmit the privacy usage data of the user to the server upon the successful comparison between the privacy policy of the server and the privacy preference of the user (Koike: Para [0021] Line 7 - 10, Para [0032] Line 3 - 4 and Para [0036]).

o Regarding (b) and (c), likewise, the claim language does not particularly recite the receiver must be the receiver of the end terminal device and Koike teaches a first unit of the privacy data administrator acquiring a privacy policy from the server and transmit the privacy usage data of the user to the server upon the successful comparison between the privacy policy of the server and the privacy preference of the user (Koike: Para [0036], Para [0021] Line 7 - 10 and Para [0032] Line 3 - 4).

o Furthermore, as a reminder to Applicant, there is another 35 USC § 102 rejection with prior-art reference, namely, Nilsson et al. (U.S. Patent 2003/0041100) as set forth in the section of 102(e) Rejection of the Final Office action (submitted on 12/16/2008: Page 6 - 8) indicates that Nilsson teaches "if the user or user agent accepts the origin servers privacy policy, the CPI may be transmitted to the origin server (Nilsson: Para [0015] Line 6 - 8: Examiner note the user receives and accepts the origin servers privacy policy) and only minimal privacy information is provided to the origin server about a user (Nilsson: Para [0014] Last sentence: minimal privacy information meets the "usage data" in the claim) and as such Applicant's arguments are respectfully traversed..